REGISTERED No. M. 4531.

GOVERNMENT OF KERALA

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. II] Trivandrum, Sunday, 7th July 1957 [No. 68

NOTIFICATION

No. LA. 4-885|57. *Dated, Trivandrum, 7th July 1957.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker, under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

(L. A. Bill No. 14 of 1957)

THE KERALA EDUCATION BILL, 1957

A Bill to provide for the better organisation and development of educational institutions in the State.

Preamble.—WHEREAS it is deemed necessary to provide for the development and better organisation of educational institutions in the State providing a varied and comprehensive educational service throughout the State;

Be it enacted in the Eighth Year of the Republic of India as follows:—

PART I

GENERAL

Short title, extent and commencement.—(1) This Act may be called the Kerala Education Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "Aided School" means a private school which is recognised by and is receiving aid from the Government;

(2) "Educational Agency" means any person or body of persons permitted to establish and maintain any aided school under this Act;

(3) "Existing School" means any aided, recognised or Government school established before the commencement of this Act and continuing as such at such commencement;

(4) "Local Educational Authority" means the authority constituted by the Government under section 18;

(5) "Prescribed" means prescribed by rules made under this Act;

(6) "Private school" means an aided or recognised school;

(7) "Recognised school" means a private school recognised by the Government under this Act and the rules thereunder, which is not an aided school;

(8) "School" includes the land and buildings of the school, the playgrounds, hostels and other residential houses attached or appurtenant to it and the movable properties such as furniture, books, apparatus, maps and equipment pertaining to the school;

(9) "State" means the State of Kerala.

3. *Establishment of Schools and registration of Institutions.*—(1) The Government shall take, from time to time, such steps, as they may consider necessary or expedient, for the purpose of providing facilities for general education, special education and for the training of teachers.

(2) The Government may, for the purpose of providing such facilities,—

(a) establish and maintain schools; or

(b) permit any educational agency to establish and maintain aided schools; or

(c) recognise any school established and maintained by any other agency.

(3) All existing schools shall be deemed to have been established in accordance with this Act and the rules made thereunder.

(4) After the commencement of this Act, the establishment of a new school or the opening of a higher class in any private school shall be subject to the provisions of this Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with such provisions shall not be entitled to be recognised by the Government.

(5) The Government may regulate the primary and other stages of education and courses of instructions in schools.

4. *State Education Advisory Board.*—(1) For the purpose of advising the Government on matters pertaining to educational policy and administration of the Department of Education, the Government may, by notification in the Gazette, constitute a State Education Advisory Board, consisting of officials and non-officials.

(2) The Board shall consist of not more than 19 members.

(3) The Government may prescribe the qualifications for appointment as members of the Board, the procedure to be followed in the meetings of the Board, and all incidental and ancillary matters for the proper working of the Board.

5. *Aided Schools established and maintained by Educational Agencies.*—Notwithstanding anything to the contrary contained in any other law or contract for the time being in force, it shall be lawful for the Government to regulate and control, from time to time, the establishment, management and maintenance of aided schools.

6. *Manager to send list of properties.*—(1) Within three months of the commencement of this Act or within such longer period as the Government may by general or special order allow, the manager of every aided school shall furnish to such authority as may be prescribed, a statement containing a list of all movable and immovable properties attached or appurtenant to the school with such other particulars as may be prescribed.

(2) Whoever commits default in furnishing the statement under sub-section (1) shall on conviction be liable to a fine not exceeding two hundred rupees and in case the default continues for more than one month after such conviction, with further fine which may extend to one hundred rupees for every week or part thereof during which such default continues.

(3) Whoever furnishes a statement under sub-section (1) which is false or incorrect in any material particular, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

7. *Restriction on alienation of school.*—(1) Notwithstanding anything to the contrary contained in any law for the time being in force, no sale, mortgage, lease, pledge, charge or transfer of possession in respect of any property attached or appurtenant to an aided school shall be created or made, except with the previous permission in writing of such authority as may be authorised by the Government in this behalf.

(2) Any person aggrieved by an order of the authorised authority refusing or granting permission under sub-section (1) may, in such manner and within such time as may be prescribed, appeal to the Government. The order of the Government on such appeal shall be final.

(3) Any transaction made in contravention of sub-section (1) or sub-section (2) shall be *null and void.*

(4) Any person who acts in contravention of sub-section (1) or sub-section (2) shall on conviction be liable for imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

8. *Managers of schools.*—(1) Any Educational Agency may appoint any person to be the Manager of an aided school under this Act, subject to the prior approval of such authority as may be prescribed in this behalf.

(2) The Manager shall be responsible for the conduct of the school in accordance with the provisions of this Act and the rules thereunder and subject to such directions and orders issued from time to time by such authority as may be prescribed.

(3) The properties of the school shall be in the custody and control of the Manager who shall be responsible to maintain them in proper and good condition.

(4) It shall be the duty of the Manager to maintain the records of the school correctly and properly in accordance with such rules, instructions and directions as may be issued from time to time.

(5) The Manager shall be bound to obey all lawful orders issued under the provisions of this Act and the rules thereunder by the Government or by such other authority as may be empowered, and shall also be bound to afford all assistance

and facilities as may be necessary or reasonably required for the inspection of the school and its records and accounts by any officer.

(6) No Manager shall close down any school except in the manner prescribed.

(7) In the event of the school being closed down or discontinued or its recognition being withdrawn the Manager shall make over to such authority as may be prescribed in this behalf all the records and the accounts of the school.

(8) If any Manager contravenes the provisions of sub-section (5) or sub-section (6) or sub-section (7), he shall, on conviction, be liable to fine which may extend to two hundred rupees; and in case the contravention continues for more than one month after such conviction, with further fine which may extend to one hundred rupees for every week or part thereof during which the default continues.

9. *Cognisance of offence.*—No court shall take cognisance of an offence punishable under sub-section (2) or sub-section (3) of section 6, or sub-section (4) of section 7, or sub-section (8) of section 8 except with the previous sanction in writing of, or on the complaint of such officer or officers as may be authorised by, the Government in this behalf.

10. *Recovery of amounts due from the Manager.*—(1) Any amounts due at the commencement of this Act to the Government from the Manager of an aided school pursuant to any agreement, scheme or other arrangement pertaining to any aid given or grant paid by the Government may also be recovered as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

(2) Where at the commencement of this Act pursuant to any agreement, scheme or other arrangement referred to in sub-section (1), any salary or arrears of salary is payable by the Manager to a teacher of the concerned aided school according to the scale prescribed by such agreement or scheme or arrangement, it shall be lawful for the Government to recover such salary or arrear of salary as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force and pay such salary or arrear of salary to the concerned teacher.

(3) All fees and other dues collected from the students in an aided school after the commencement of this Act, or such portions thereof as may be prescribed, shall, notwithstanding anything contained in any agreement, scheme or arrangement, be made over to the Government in such manner as may be prescribed.

11. *Grants to aided schools.*—(1) The Government shall pay the salary of all teachers in aided schools direct or in such manner as may be prescribed.

(2) The Government may pay to the Manager a maintenance grant at such rates as may be fixed from time to time.

(3) The Government may make grants-in-aid for the purchase, improvement and repairs of any land, building, or equipment of an aided school.

12. *State Register of teachers.*—(1) The Government shall maintain a State Register in which the names of such persons who are eligible for appointment as teachers shall be registered.

(2) All persons employed as teachers in the existing schools shall be deemed to be registered in the State Register.

(3) The Government may prescribe the qualifications of persons for registration as teachers in the State Register and the procedure therefor.

(4) The State Register shall be maintained by such authority and in such manner as may be prescribed.

(5) No person who is not registered or deemed to be registered in the State Register shall be eligible for appointment as a teacher in any Government or private school in the State.

13. *Appointment of teachers in aided schools.*—All teachers in aided schools shall be appointed by the Manager and only from the panel of names given to him in the manner prescribed by the prescribed authority.

14. *Pension and other benefits to aided school teachers.*—(1) The Government may by notification in the Gazette extend to the teachers employed in aided schools any scheme relating to pension, provident fund and insurance applicable to teachers employed under the Government, subject to such conditions and with such modifications as may be deemed fit.

(2) The management shall not be liable to contribute any amount towards such schemes.

15. *Absorption of teachers on retrenchment.*—Where any retrenchment of teachers in any aided school is rendered necessary consequent on orders of the Government relating to the course of studies, or scheme of teaching or of such other matters, the prescribed authority may direct the Manager of any other aided school to appoint such teachers in suitable vacancies occurring in the school and the Manager shall be bound to comply with such directions.

16. *Taking over management of schools.*—(1) Whenever it appears to the Government that the Manager of any aided school has neglected to perform any of the duties imposed by or under this Act or the rules made thereunder, and that in the public interest it is necessary to take over the management of the school for a period not exceeding five years, they may, after giving the Manager a reasonable opportunity for showing cause against the proposed action and after considering the cause, if any, shown, do so, if satisfied that such taking over for the period is necessary in the public interest.

(2) In cases of emergency, where the Government are satisfied that such a course is necessary, they may without any notice under sub-section (1) to the Manager, take over the management of any school after the publication of a notification to that effect in the Gazette.

(3) The Government may also make such further orders as may appear to them to be necessary or expedient in connection with the taking over of the management of any aided school under this section.

(4) Where any school is taken over under this section, the Government shall pay to the person or persons interested, such rent as may be fixed by the Collector, having regard to the rates of rent prevailing in the locality for similar properties:

Provided that where any property has been acquired, constructed, improved or maintained for the purposes of the school with the aid given or by appropriation or diversion of any grant made by the Government the rent shall be fixed by the Collector after taking into account the amount of such aid or grant.

(5) Any person aggrieved by an order of the District Collector fixing the rent under sub-section (4) may in the prescribed manner, appeal to the District Court within whose jurisdiction the school is situate within sixty days from the date of the order and the decision of the Judge shall be final.

(6) It shall also be lawful for the Government to acquire the school taken over under this section, if they are satisfied that it is necessary so to do in the public interest, in which case compensation shall be payable in accordance with the principles laid down in section 17 for payment of compensation.

17. *Power to acquire any category of schools.*—(1) If the Government are satisfied that for standardising general education in the State, or for improving the level of literacy in any area or for more effectively managing the aided educational institutions in any area or for bringing education of any category under their direct control, in the public interest it is necessary to do so they may, by notification in the Gazette, take over with effect from any day specified therein any category of aided schools in any specified area or areas; and such schools shall vest in the Government absolutely with effect from the day specified in such notification.

(2) Where any school has vested in the Government under sub-section (1), compensation shall be paid to the persons entitled thereto on the basis of the market value thereof as on the date of the notification:

Provided that where any property has been acquired, constructed, improved or maintained for the purposes of the school with the aid given or by appropriation or diversion of any grant made by the Government the compensation payable shall be fixed after deducting from the market value the amounts of such aids or grants:

Provided further that in the case of movable properties the compensation payable shall be the market value thereof on the date of the notification or the actual cost thereof less the depreciation, whichever is lower.

(3) The amount of compensation and its apportionment among the persons entitled thereto shall be determined by the District Collector in accordance with such rules as may be prescribed.

(4) Any person aggrieved by an order of the District Collector may in the prescribed manner appeal to the District Court within whose jurisdiction the school is situate within sixty days of the date of such award and the decision of the judge shall be final.

18. *Creation of Local Educational Authorities.*—(1) For the purpose of associating people with the administration of education and to preserve and stimulate local interest in educational affairs, the Government may by notification in the Gazette establish Local Educational Authorities in the State exercising jurisdiction in any local area or areas to be specified in such notification.

(2) The Government may direct that the administration of education may be carried on by Local Educational Authorities, while inspection, control and supervision of schools may be by the Education Department of the State.

(3) The constitution of the Local Educational Authority in any area and the entrustment of the administration of education in that area to such authority shall not affect or prejudice the rights, privileges, liabilities and obligations of teachers in schools in that area.

19. *Recognised schools.*—The provisions of sections 5, 6, 7, 8, 9, 16 and 17 shall apply to recognised schools to the same extent and in the same manner as they apply to aided schools.

PART II.

Compulsory Education

20. *Application of the Part.*—This Part shall apply to—

(i) the areas to which the provisions of the Travancore Primary Education Act, 1121, the Cochin Free Compulsory Primary Education Act, XI of 1123 or the Madras Elementary Education Act, 1920, have been brought into force; and

(ii) any other area to which it may be extended by the Government by notification in the Gazette.

21. *Definitions.*—In this Part, unless the context otherwise requires,—

(i) "area of compulsion" means an area to which this Part applies;

(ii) "child" means a boy or girl between such ages at the beginning of the academic year, as may be prescribed;

(iii) "guardian" includes a parent and any person who has the actual custody of the child;

(iv) "to attend a school" means to be regularly present for instruction at such school on such days, at such time or times and for such period or periods on each day as may be prescribed by the Local Education Committee for that area with the approval of the Education Department;

(v) "Local Education Committee" means the committee constituted under section 22.

22. *Local Education Committee.*—(1) The Government shall appoint for each area of compulsion or for any portion of the area of compulsion a Local Education Committee.

(2) The Committee shall be constituted in such manner and for such period as may be prescribed.

23. *Function of Local Education Committee.*—(1) It shall be the duty of the Local Education Committee to enforce the provisions of this Act in regard to attendance at schools and to ensure that the employment, if any, of children does not interfere with their attendance in Government or Private Schools.

(2) The Local Education Committee may from time to time delegate any of its powers and duties to any Sub-Committee or member. Such Committee or member shall conform to any instruction that may from time to time be given by the Local Education Committee. The Committee may at any time discontinue or alter the constitution of any Sub-Committee so formed or withdraw any of the powers or duties so delegated.

24. *Obligation on guardian to send children to school.*—In any area of compulsion, the guardian of every child shall, if such guardian ordinarily resides in such area, cause such child to attend a Government, or Private School and once a child has been so caused to attend school under this Act the child shall be compelled to complete the full course of primary education or the child shall be compelled to attend school till it reaches the age of fourteen.

25. *Exemption from attendance.*—A child may be exempted for a specified period or periods from compulsory attendance at school under this Act—

(1) by the Government on religious grounds or on account of social customs; and

(2) by the Local Education Committee—

(a) when it is receiving otherwise than in a Government or Private School, instruction in an educational institution approved by the Local Education Committee; or

(b) when it is otherwise receiving education which in the opinion of the Local Education Committee is efficient or has received from the Local Education Committee a certificate of having already completed its primary education; or

(c) where it is impracticable or inexpedient that it should attend school on account of illness, disease, injury, affliction, infirmity or of any other cause regarded as sufficient by the Local Education Committee, subject to such rules as may be prescribed in this behalf; or

(d) where there is no Government or Private School within a distance of one mile measured along the nearest road from the residence of the child which the child can attend.

26. *Warning for failure to discharge obligation and for interference.*—(1) When the Local Education Committee has reason to believe that a guardian of any child to whom this Act applies and who is bound under section 24 to cause such child to attend a Government or Private School has failed to do so or that any person other than the guardian is utilising the time or services of a child in connection with any employment, whether for remuneration or not, in such a manner as to interfere with the attendance of the child at a Government or Private School, it shall warn him in writing that within one week of the receipt of the warning he shall cause the child to attend school or shall refrain from utilising the services of the child as aforesaid.

(2) When a Local Education Committee is satisfied that a guardian has failed to cause his child to attend school or that any person is interfering with such attendance of a child even after the warning mentioned in sub-section (1), the Local Education Committee or any member authorised by the Committee shall lodge a complaint against such guardian or other person with the Magistrate having local jurisdiction.

(3) If the Magistrate is satisfied that the complaint is well-founded, he shall pass an order directing the guardian or other person to cause the child concerned to attend school regularly or to refrain from interfering with the attendance of the child, as the case may be, after a specified date. If the guardian or other person fails to comply with such order, he shall on conviction be liable to fine not exceeding five rupees for the first offence and twenty rupees for every subsequent offence.

27. *Penalty for employment of children or interference with their attendance at school.*—Any person other than the guardian who shall utilise the time or services of a child in connection with any employment, whether for remuneration or not, in such a manner as to interfere with the attendance of the child at a Government or Private School in spite of a warning given under section 26, shall be liable to fine not exceeding fifteen rupees for the first offence and not exceeding thirty rupees for each subsequent offence.

28. *No fee to be charged and free books, etc., to be provided in certain cases.*—(1) No fee shall be payable by any pupil for any tuition in the primary classes in any Government or Private School.

(2) In cases where guardians are too poor to provide meals or to buy books and writing materials the Government may, if the Local Education Committee so recommends, provide children of such guardians with free noon-day meals on the days on which the children attend school and necessary books, and writing materials free of cost.

29. *Inspection of offices, books and accounts of Local Education Committees.*—(1) The Local Education Committee shall maintain such books, accounts and registers as may be prescribed.

(2) The office, books and accounts of every Local Education Committee shall be open to inspection by the Government.

PART III.

MISCELLANEOUS.

30. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against the Government or any authority or any officer for anything done under this Act in good faith or for any damage caused by any action taken in good faith in carrying out the provisions of this Act or the rules thereunder.

31. *Courts not to grant injunction.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceedings which is being or about to be taken under this Act.

32. *Delegation of powers.*—It shall be lawful for the Government by notification in the Gazette, to delegate to any Local Educational Authority or any officer of the Education Department, all or any of the powers vested in them by this Act, except the powers under sections 16, 17 and 34, and to withdraw any power so delegated.

33. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may by order do anything not inconsistent with such provisions which appear to them to be necessary or expedient for the purpose of removing the difficulty.

34. *Power to make rules.*—(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the establishment and maintenance of schools;

(b) the giving of aid to private schools;

(c) the grant of recognition to private schools;

(d) the qualifications for appointment as teachers, including the conditions of service of teachers;

(e) the maintenance of the State Register of teachers, including the manner in which and the authority by whom such register shall be maintained;

(f) the manner in which accounts, registers and records shall be maintained in schools, and the authority responsible for such maintenance;

(g) the submission of returns, statements, reports and accounts by managers of schools;

(h) the inspection of schools and the authorities by whom inspection shall be made;

(i) the mode of keeping and the auditing of accounts of schools;

(j) the mode of ascertaining the value of the schools for payment of compensation in cases of taking over;

(k) the standards of education and courses of study;

(l) creation and powers and working of Local Educational Authorities; and

(m) all matters expressly required or allowed by this Act to be prescribed.

35. *Rules to be laid before Legislative Assembly.*—All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

36. *Repeal.*—The Travancore Primary Education Act, 1121, the Cochin Free Compulsory Primary Education Act, XI of 1123 and the Madras Elementary Education Act, 1920 as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

Statement of Objects and Reasons

It is proposed to provide for the better organisation of general education in Kerala State and give it a statutory basis. The Bill seeks to achieve this purpose.

Financial Memorandum.

The Bill aims at giving a statutory basis to the existing practices and principles of education. As such no extra financial commitment is involved except for two sections—Sections 16 and 17. It is difficult to assess the financial implications of the action proposed to be taken under section 16. The intention is to take over all Primary Schools in one district in 1957-1958. A provision of 5 lakhs has been made for this purpose in the current year's Budget. The extra cost involved in the implementation of the proposal contained in section 17 can be met by internal re-appropriation.

JOSEPH MUNDASSERY.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM—1957